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EXAMINER

CONLEY, FREDRICK C

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,225	Applicant(s) VALLI, ALBERTO	
	Examiner FREDRICK C. CONLEY	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22,24-27 and 32-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22,24-27 and 32-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 24-27, and 32-40 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,862,454 to Mazzucconi.

Claim 22, Mazzucconi discloses a bed comprising a supporting structure for a resting element that lies along a main longitudinal axis, wherein said resting element is associated with movement means that are adapted to move on command said resting element with an oscillating motion about a tilting axis defined by cross member 3 that is substantially parallel to said main longitudinal axis (col. 1 lines 5-12), wherein the bed conversion means are adapted to convert said resting element from a flat condition to a substantially shell-like configuration (col. 1 lines 40-47), wherein said resting element comprises an internal longitudinal portion (3,8,9) and at least two external longitudinal portions (1,2) that are arranged on opposite sides with respect to said at least one internal longitudinal portion relative to the main longitudinal axis, said at least one internal longitudinal portion and said at least two external longitudinal portions being arranged, when said resting element is in the fiat condition, on the same plane of arrangement as indicated by the dotted line, said conversion means comprising means for lifting/lowering said at least one internal longitudinal portion with respect to said supporting structure and means for

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the angular movement, about a respective movement axis that is substantially parallel to the main longitudinal axis, of said pair of external longitudinal portions in order to obtain said shell-like configuration (fig. 7), wherein said internal longitudinal portion comprises at least one pair of longitudinal members, said supporting structure comprising an external profile that has two supporting bars (8,9), each one of said external longitudinal portions being associated with a respective longitudinal member and with a respective supporting bar, which are arranged on the same side with respect to said internal longitudinal portion, said lifting/lowering means being adapted to move said pair of longitudinal members with respect to said external profile along a direction that is substantially perpendicular to the plane of arrangement of said internal longitudinal portion and to move in an angular fashion said external longitudinal portions about a respective angular movement axis, wherein said at least one pair of longitudinal members support a first plurality of cross-members 14, which are mutually spaced along said main longitudinal axis, second pluralities of cross-members 14 being provided which are mutually spaced along said main longitudinal axis and are associated with said supporting bars and with said longitudinal members.

Claim 24, Mazzucconi discloses the bed according to claim 22, wherein said resting element, in said substantially shell-like configuration, has a concavity that is directed upward during use (col. 1 lines 48-62).

Claim 25, Mazzucconi discloses the bed according to claim 22, wherein said resting element has at least two transverse portions that are arranged in succession along said main longitudinal axis, said at least two transverse portions having mutual connection means that are adapted to allow, on command, an angular movement of one transverse portion with respect to the other transverse portion about a transverse axis that is substantially perpendicular to said main longitudinal axis (fig. 6).

Claim 26, Mazzucconi discloses the bed according to claim 22, wherein said resting element comprises at least three longitudinal elements (3,8,9), which can be moved with respect to each other about respective mutual connection axes in order to shift between said flat condition (fig. 5,7), in which said at least three longitudinal elements lie substantially on the same plane of arrangement, and a shell-like condition, in which said at least three longitudinal elements cooperate in order to obtain said substantially shell-like configuration (fig. 4,6).

Claim 27, Mazzucconi discloses the bed according to claim 23, wherein said conversion means comprise actuation means that are adapted to move said at least three longitudinal elements in an angular fashion with respect to each other about the respective mutual connection axis (col. 3 lines 41-44).

Claim 31, Mazzucconi discloses the bed according to claim 30, wherein each one of said second pluralities of cross-members has a first portion for pivoting to a respective supporting bar and a second end that is supported so that it can slide by a respective longitudinal member (col. 4-5 lines 65-68 & 1-2).

Claim 32, Mazzucconi discloses the bed according to claim 29, wherein said longitudinal members have a diverging arrangement defined by recesses (4,6) at the respective end portions that are located toward the head of the bed.

Claim 33, Mazzucconi discloses the bed according to claim 29, wherein said movement means comprise motor means that are kinematically connected to at least one movement element, which comprises a respective driving shaft that is adapted to rotate with a back-and-forth motion in order to cause the oscillation of said resting element about said tilting axis (fig. 3).

Claim 34, Mazzucconi discloses the bed according to claim 33, wherein each transverse portion is associated with a respective movement element.

Claim 35, Mazzucconi discloses the bed according to claim 22, wherein said resting element comprises an intermediate transverse portion 14, a transverse head portion 14 and a transverse foot portion 14, respective mutual connection means being provided between said intermediate transverse portion and said foot portion and between said intermediate transverse portion and said head portion (fig. 1).

Claim 36, Mazzucconi discloses the bed according to claim 33, wherein it comprises articulation devices defined by pads 20 between said movement elements arranged in succession.

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Claim 37, Mazzucconi discloses the bed according to claim 22, wherein it comprises a mattress device defined by a plurality of pads 20 that is designed to be arranged on top of said resting element during use.

Claim 38, Mazzucconi discloses the bed according to claim 37, wherein said mattress device comprises a plurality of mattresses 20 that are adapted to arrange their respective peripheral edges at said transverse axes and at said connection means.

Claim 39, Mazzucconi discloses the bed according to claim 23, wherein said shell-like element is connected to a respective protective side defined by padding extending around the edges at upper longitudinal edges.

Claim 40, Mazzucconi discloses the bed according to claim 39, wherein said protective side is associated with guiding means (10,11) that are adapted to keep said protective side substantially vertical (fig. 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat No. 3,862,454 to Mazzucconi in view of U.S. Pat. No. 5,636,393 to Zafiroglu et al.

Claim 41, Mazzucconi discloses the bed according to claim 37, but fails to disclose a covering means. Zafiroglu discloses a covering means that is detachably associable on top of said mattress device wherein said covering means comprise a panel that is shaped like a shell and is substantially impermeable (col. 3 lines 3-7). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a cover as taught by Zafiroglu in order to provide a water impermeable layer to the mattress.

Response to Arguments

Applicant's arguments filed 6/10/09 have been fully considered but they are not persuasive.

Contrary to the Applicant's arguments Mazzucconi discloses a supporting structure (1,2) of an external profile with supporting bars (8,9), first cross members 14 supported by the longitudinal member of the internal longitudinal portion (3,8,9), and second cross members 14 pivoted to the supporting bars and sliding with respect to the longitudinal members 304 (col. 4-5 lines 65-68 and 1-2).

Claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims. Therefore, the words of a claim are generally given their ordinary and customary meaning. It appears that the Applicant relies on broad structural language that fails to clearly distinguish the present invention over the prior art of record and does not preclude the Examiner from interpreting the claims as stated above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is (571)272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PETER CUOMO can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FREDRICK C CONLEY/
Primary Examiner, Art Unit 3673